

Revised 03/06 WDNV

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)**

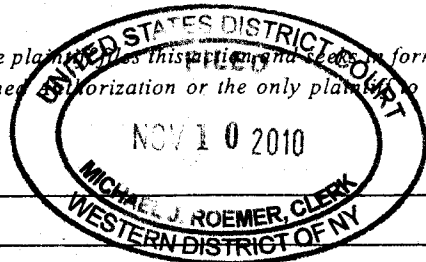
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1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: **NOTE:** *If more than one plaintiff files this section and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Martin Johnson 10A0687

2. _____



-VS-

B. Full Name(s) of Defendant(s) **NOTE:** *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. <u>NEW YORK STATE DOC/ DCF</u>	4. <u>CO. H. RICEBERG</u> Correction Officer
2. <u>N LOPEZ</u> Correction Officer	5. <u>John Doe</u> Correction Officer
3. <u>N Johnson</u> Correction Officer	6. <u>John Doe</u> Correction Officer
<u>NEW YORK STATE</u>	

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION **NOTE:** *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Martin Johnson - 10A0687

Present Place of Confinement & Address: South Port Correctional Facility 236 Bob MASSA DRIVE
P.O. Box 2000 Pine City, New York 14871-2000

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.Name of Defendant: N LOPEZ(If applicable) Official Position of Defendant: Correction Officer(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official CapacityAddress of Defendant: Downstate Correctional Facility Box F Red
Schoolhouse Road Fishkill, New York 12524-0445Name of Defendant: N Johnson(If applicable) Official Position of Defendant: Correction Officer(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official CapacityAddress of Defendant: Downstate Correctional Facility Box F Red
Schoolhouse Road Fishkill, N.Y. 12524-0445Name of Defendant: H Rizenberg(If applicable) Official Position of Defendant: Correction Officer(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official CapacityAddress of Defendant: Downstate Correctional Facility Box F Red School-
house Road Fishkill, N.Y. 12524-0445And (2) two other John Doe's**4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT**

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes ___ No ___

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

_____ Dismissed (check the box which indicates why it was dismissed):

_____ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

_____ By court for failure to exhaust administrative remedies;

_____ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

_____ By court due to your voluntary withdrawal of claim;

_____ Judgment upon motion or after trial entered for

_____ plaintiff

_____ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes _____ No _____

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

 Dismissed (check the box which indicates why it was dismissed):

- By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- By court for failure to exhaust administrative remedies;
- By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- By court due to your voluntary withdrawal of claim;

 Judgment upon motion or after trial entered for

- plaintiff
- defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | | |
|-----------------------|--------------------|------------------------|-------------------------------|
| • Religion | • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) 3-22-10 7:20 AM
 defendant (give the **name and position held** of each defendant involved in this incident) N LOPEZ N Johnson AND H. RICEBERG All of which ARE Correction Officer's
AND (2) two other MALE John DOE's to which ARE Correction Officer's
 did the following to me (briefly state what each defendant named above did): RICEBERG AND A FEW
OTHER MALE OFFICER'S held me down and let officer's N
LOPEZ AND N Johnson BEAT my leg's with those belly Club Sticks
while laughing REMEMBER Downstate was well
AWARE of my being an already handicap man BECAUSE I came to
downstate on crutches and/or came on 2-12-10 so why maliciously
ASSAULT someone who's handicap

The constitutional basis for this claim under 42 U.S.C. § 1983 is: CRUEL MALICIOUS AND INTENTIONAL
ASSAULT of the Eighth Amendment claim

The relief I am seeking for this claim is (briefly state the relief sought): ONE hundred million
dollars

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? GRIEVANCE DENIED

Did you appeal that decision? ☒ Yes ☐ No If yes, what was the result? still waiting

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: I grieved the issue to superint-
endent and Dep. of security to try and resolve this diplomatically and they
simply return GRIEVANCE saying "NO"

A. SECOND CLAIM: On (date of the incident) 3-22-10 7:20 AM
 defendant (give the **name and position held** of each defendant involved in this incident) N LOPEZ N
Johnson, RICEBERG AND A FEW OTHER MALE OFFICER'S

did the following to me (briefly state what each defendant named above did): _____

The constitutional basis for this claim under 42 U.S.C. § 1983 is: _____

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes _____ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes _____ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Do you want a jury trial? Yes _____ No _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5-4-10
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

Martin Johnson

Signature(s) of Plaintiff(s)